

**MATALON TAWIL LLC**  
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***Attorneys For Defendants***

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

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**JIANGSU SAGA HOLDINGS CO., LTD.,**  
**Plaintiff,**

**Docket No. 22-cv-05972**

**-against-**

**E-Z APPAREL, LLC, GABRIEL ZEITOUNI,**  
**CHARLES AZRAK,**

**ANSWER &**  
**COUNTERCLAIMS**

**Defendants.**  
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Defendants E-Z APPAREL, LLC, GABRIEL ZEITOUNI and CHARLES AZRAK, by their attorneys MATALON TAWIL LLC, answering the Complaint, allege:

1. Paragraph 1 of the Complaint is merely a description of the nature of the action to which no answer is necessary. To the extent such paragraph is deemed to contain factual allegations, they are denied.
2. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint.
3. The first two sentences of paragraph 3 of the Complaint are admitted. The third sentence is denied.
4. Defendants admit the allegations contained in paragraph 4 of the Complaint.

5. Charles Azrak admits that he is a United States citizen. The remaining allegations in paragraph 5 are denied.

6. Defendants admit the allegations contained in paragraph 6(b), and deny knowledge or information sufficient to form a belief as to the truth of remaining allegations in paragraph 6 of the Complaint.

7. It is not possible to respond to paragraph 7 of the Complaint because it references only one defendant, and it is unclear which defendant the Complaint is referring to. To the extent an response is required, the allegations are denied.

8. Defendants deny the allegations contained in paragraph 8 of the Complaint.

9. Defendants admit that plaintiff purports to seek recover in the amounts specified, but deny any liability to pay such amounts.

10. Defendants deny the allegations contained in paragraph 10 of the Complaint.

11. Defendants deny the allegations contained in paragraph 11 of the Complaint.

12. Defendants deny the allegations contained in paragraph 12 of the Complaint.

13. Defendants deny the allegations contained in paragraph 13 of the Complaint.

14. Defendants deny the allegations contained in paragraph 14 of the Complaint.

15. Defendants deny the allegations contained in paragraph 15 of the Complaint.

16. Defendants incorporate by reference the preceding allegations as if fully restated herein.

17. Defendants deny the allegations contained in paragraph 17 of the Complaint.

18. Defendants deny the allegations contained in paragraph 18 of the Complaint.

19. Defendants deny the allegations contained in paragraph 19 of the Complaint.

20. Defendants deny the allegations contained in paragraph 20 of the Complaint.

21. Defendants deny the allegations contained in paragraph 21 of the Complaint.

22. Defendants deny the allegations contained in paragraph 22 of the Complaint.

23. Defendants incorporate by reference the preceding allegations as if fully restated herein.

24. Defendants deny the allegations contained in paragraph 24 of the Complaint.

25. Defendants deny the allegations contained in paragraph 25 of the Complaint.

26. Defendants deny the allegations contained in paragraph 26 of the Complaint.

27. Defendants deny the allegations contained in paragraph 27 of the Complaint.

28. Defendants deny the allegations contained in paragraph 28 of the Complaint.

29. Defendants incorporate by reference the preceding allegations as if fully restated herein.

30. Defendants deny the allegations contained in paragraph 30 of the Complaint.

31. Defendants deny the allegations contained in paragraph 31 of the Complaint.

32. Defendants deny the allegations contained in paragraph 32 of the Complaint.

33. Defendants incorporate by reference the preceding allegations as if fully restated herein.

34. Defendants deny the allegations contained in paragraph 34 of the Complaint.

35. Defendants deny the allegations contained in paragraph 35 of the Complaint.

36. Paragraph 36 of the Complaint is not a factual allegation to which a response is necessary.

### **Affirmative Defenses**

#### **FIRST AFFIRMATIVE DEFENSE**

The Complaint should be dismissed, in whole or in part, for failure to state a claim upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

The Complaint must be dismissed to the extent of Plaintiff's failure to timely deliver the goods contracted for under each Purchase Order.

#### **THIRD AFFIRMATIVE DEFENSE**

The Complaint must be dismissed as against Mr. Zeitouni and Mr. Azrak because Plaintiff is not in privity of contract with those parties.

#### **FOURTH AFFIRMATIVE DEFENSE**

The Complaint must be dismissed against Mr. Zeitouni and Mr. Azrak because Plaintiff has failed to adequately allege facts to support its assertions that the corporate veil of the corporate defendant should be pierced under any veil-piercing theory.

#### **FIFTH AFFIRMATIVE DEFENSE**

The Complaint should be dismissed based upon Plaintiff's prior breach of the terms of each Purchase Order.

#### **SIXTH AFFIRMATIVE DEFENSE**

The Complaint should be dismissed, in whole or in part, for Plaintiff's failure to mitigate damages.

#### **SEVENTH AFFIRMATIVE DEFENSE**

The Complaint should be dismissed, in whole or in part, based upon accord and satisfaction.

#### **EIGHTH AFFIRMATIVE DEFENSE**

The Complaint should be dismissed, in whole or in part, based upon waiver.

NINTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed, in whole or in part, based upon estoppel.

TENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed, in whole or in part, based upon laches.

ELEVENTH AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, by the doctrine of unclean hands.

TWELFTH AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, for failure of consideration.

THIRTEENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed, in whole or in part, based on the express terms of the contract.

FOURTEENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed, and sums demanded thereon reduced, in whole or in part, based on setoff or recoupment.

FIFTEENTH AFFIRMATIVE DEFENSE

The Complaint, including monetary relief, attorneys' fees and costs sought therein, is barred, in whole or in part, by the provisions or omissions of the contract.

SIXTHEENTH AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, by frustration of purpose.

SEVENTEENTH AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, by Plaintiff's own acts or omissions in hindrance and prevention of performance.

EIGHTEENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed, in whole or in part, for Plaintiff's breach of the implied covenant of good faith and fair dealing.

NINETEENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed, in whole or in part, because Plaintiff has suffered no cognizable injury.

TWENTIETH AFFIRMATIVE DEFENSE

The Complaint should be dismissed, in whole or in part, because Plaintiff has suffered no actual damages.

TWENTY FIRST AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, by the doctrine of unconscionability.

COUNTERCLAIMS

Defendant E-Z Apparel, LLC reserves the right, and intends, to amend this Answer to include counterclaims relating to late delivery of goods, defective goods, and other matters, the result of which cost E-Z Apparel sums of money which exceed the amounts being claimed by plaintiff herein.

\* \* \*

Defendants wish to publicly thank plaintiff's counsel for the repeated courtesies he has given to defense counsel in extending the time to answer because of personal issues affecting defense counsel.

Dated: January 18, 2023

**MATALON TAWIL LLC**

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